BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● JANUARY 14, 2020

Reorganization **Maple Place School** **7:30 PM**

2 Maple Place, Oceanport, NJ 07757

I. **Call to Order:** Mr. Widdis called the meeting to order at 7:30 p.m.

II. **Flag Salute:** Mr. Widdis led the audience and members of the Board in the flag salute.

III. **Open Public Meetings Statement:** Mr. Widdis stated this meeting complies with the Open Public Meetings Act by notification on December 17, 2019 of this location, date and time to the Asbury Park Press and the LINK News and by the posting of same on the municipal bulletin board and Borough Web Site.

IV. **Oaths of Office:** Mr. Kennedy administered a group oath of office to the following:

1. Patty Cooper, Class I (Mayor's Designee)
2. Thomas Tvrdik, Class III (Council Liaison)
3. Darren Davis, Class IV, unexpired term
4. Christopher Widdis, Class IV
5. Michael Daley, Alternate #1
6. Jacob Rue, Alternate #2, unexpired term

V. **Roll Call:**

Attendee Name	Title	Status
Christopher Widdis	Chairman	Present
James Whitson	Vice Chairman	Present
Patty Cooper	Mayor's Designee	Present
Thomas Tvrdik	Class III	Present
Joseph Foster	Environmental Committee Liaison	Absent
John (Jack) Kahle	Class IV	Present
Michael Savarese	Class IV	Absent
Robert Kleiberg	Class IV	Present
Darren Davis	Class IV	Present
Michael Dailey	Alternate I	Present
Jacob Rue	Alternate II	Present
Jeanne Smith	Board Secretary	Present
William White	Board Engineer/Planner	Present
Kevin Kennedy	Board Attorney	Present

VI. **BOARD BUSINESS:**

A. REORGANIZATION:

1. Election of Chairman

Mr. Whitson made a motion to nominate Mr. Widdis as Chairman, which was seconded by Mr. Kleiberg and unanimously approved by the Board with Mr. Widdis abstaining.

2. Election of Vice-Chairman

Mr. Kleiberg made a motion to nominate Mr. Whitson as Vice Chairman, which was seconded by Mr. Kahle and unanimously approved by the Board with Mr. Whitson abstaining.

3. Appointment of Board Secretary

Chairman Widdis made a motion to appoint Jeanne Smith as Board Secretary, which was seconded by Mr. Whitson and unanimously approved by the Board.

4. RESOLUTION APPROVING ANNUAL MEETING SCHEDULE FOR 2020

As the Resolution had been previously provided to the Board, Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Kahle and received the below roll call:

Motion to Approve PR-20-1

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Foster, Savarese

5. RESOLUTION APPOINTING BOARD ATTORNEY FOR THE YEAR 2020

As the Resolution had been previously provided to the Board, Mr. Rue made a motion to approve the Resolution, which was seconded by Mr. Davis and received the below roll call:

Motion to Approve PR-20-2

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jacob Rue, Alternate II
SECONDER:	Darren Davis, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Foster, Savarese

6. RESOLUTION APPOINTING BOARD ENGINEER/PLANNER FOR THE YEAR 2020

As the Resolution had been previously provided to the Board, Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Kleiberg and received the below roll call:

Motion to Approve PR-20-3

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Foster, Savarese

7. RESOLUTION APPOINTING CONFLICT BOARD ENGINEER/PLANNER FOR THE YEAR 2020

As the Resolution had been previously provided to the Board, Ms. Cooper made a motion to approve the Resolution, which was seconded by Mr. Davis and received the below roll call:

Motion to Approve PR-20-4

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Patty Cooper, Mayor's Designee
SECONDER:	Darren Davis, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Kahle, Kleiberg, Davis, Dailey, Rue
ABSENT:	Foster, Savarese

8. Resolution of Approval - Lynch, Robert

As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Mr. Whitson made a motion to approve the Resolution, which was seconded by Mr. Kahle and received the below roll call:

Motion to Approve PR-20-5

RESULT:	**ADOPTED [5 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Tvrdik, Kahle, Kleiberg
ABSENT:	Foster, Savarese
INELIGIBLE:	Cooper, Davis, Dailey, Rue

B. Approval of Minutes:

1. Approval of Minutes, December 10, 2019

RESULT:	**ADOPTED [6 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Tvrdik, Kahle, Kleiberg, Davis
ABSTAIN:	Cooper, Dailey, Rue
ABSENT:	Foster, Savarese

C. Master Plan/Housing Element/Fair Share Plan Update: Ms. Smith advised the Board that the Governing Body had come to a Settlement Agreement regarding its affordable housing litigation. As a result the Board will be provided with proposed amendments to the Master Plan, Housing Element and Fair Share Plan along with four (4) zoning ordinance amendments to comply with the conditions of the settlement. Once the documents have been finalized they will be provided to the Board and a public hearing scheduled. Chairman Widdis asked if there would be anyone attending to present the documents and answer questions which Ms. Smith advised the Borough Planner, Kendra Lelie would be attending.

D. ***Fort Monmouth Fitness Center - Amended Site Plan Determination:*** Mr. White recapped the Board approval inn 2017 for the Fitness Center, stating construction and finance issues caused some delays. He advised that revised plans will be submitted showing the removal of pool renovation. Mr. White stated the ordinance is vague, and requested an interpretation from the Board regarding determination of a plan amendment or new application. He had discussions with the Applicant's attorney regarding gross floor area and parking. Mr. Kennedy advised after reviewing the law, he found that the issue is to determine if it is substantially different. There was additional discussion regarding parking and plan changes. Board members concluded the changes were an amendment, and a new application was not required. Mr. White advised that a revised Mandatory Conceptual Review (MCR) was required. Chairman Widdis stated the Applicant would have to re-notice. Mr. Kennedy stated if the amendment was approved it would supersede any previous approvals.

VII. Old Business:

1. PB2019-19 Merces, Paul & Dallas, Erica - CARRIED from December 10, 2019

416 Milton Avenue
Block 93, Lot 1
Bulk variances for construction of new single-family home

Exhibits
A-1 Land Use Development Application of Paul Merces & Erica Dallas
A-2 Plans prepared by Bromak Design Group P.C., dated September 30, 2019, consisting of 2 sheets.
A-3 Plot plan with grades prepared by Richard Stockton, dated August 13, 2019, consisting of 4 sheets
A-4 Maser Consulting review memorandum, dated October 31, 2019
A-5 Plans prepared by Bromak Design Group P.C., dated September 30, 2019, last revised December 2, 2019, consisting of 4 sheets.

P-1 Photograph, taken by Salvatore LaRosa, Jr., dated January 13, 2020
P-2 Photograph, taken by Salvatore Larosa, Jr., dated January 13, 2020

William White, Board Engineer, was sworn in. Mr. Kennedy marked in **A-1, A-2, A-3, A-4** and **A-5** for the record. Mr. Kennedy stated the initial Application required a height variance which could be a C or D variance, which could preclude Ms. Cooper, Mayor's designee, and Councilman Tvrdik. Carrie Higgins, Esq., attorney for the Applicant, explained that the height has been reduced to 34' 6" which would comply with requirements. Ms. Higgins described the pre-existing undersized lot and setback requirements. Chairman Widdis asked Board members to correct the lot width from 75' to 50' on **A-5**.

Paul Merces, Applicant, was sworn and answered basic questions from Mr. Kennedy. Ms. Higgins elicited testimony from Mr. Merces regarding his proposal to demolish the existing building and build a new single-family residence, current condition of the building and the reduction in height. Ms. Higgins advised that revised boundary and topographic survey, plot plan, architectural plans, and grading plan will be submitted to the satisfaction of Mr. White.

Eric Dallas, Applicant's builder, was sworn and provided his experience and qualifications. He described the proposed building, bedrooms, dining & living rooms, kitchen, family room, water views, decks and proposed swimming pool. Mr. Dallas testified regarding setbacks and the location of the proposed building. Chairman Widdis asked about the garage. Mr. Dallas explained there is an existing freestanding garage, and explained the proposed change from a garage to a shed for pool storage. Mr. Dallas discussed the first level and grading.

Mr. White stated that if approved, the pool would require fencing, and the utility disconnects/reconnects will require approval from the Governing Body because Milton Ave. was just paved last year. Mr. Dallas testified that NJNG told him a shut off valve would be inside the curb. Board members suggested getting that in writing. There was discussion regarding drainage, the need for a grading plan and installation of roof leaders being tied into a common pipe leading to discharge into Oceanport Creek. Councilman Tvrdik asked about relocating the shed and the type of access to the attic. Mr. Dallas will look at creating storage under the deck and advised that the attic has pull down stairs. Mr. Whitson asked about the location of pool equipment. Ms. Higgins said the Applicant will stipulate to placing the equipment on the Allenhurst side. Mr. Whitson asked for clarification regarding the total number of variances being requested. Ms. Higgins stated the Applicant is seeking lot width, lot square footage, 10' setback on Allenhurst Ave. and pre-existing garage being converted to a shed. There was additional discussion regarding the size of the garage/shed. Mr. Kahle asked about lot coverage. Mr. White pointed out the figure on the plans shows 39.9 where 40 is permitted. There was discussion regarding runoff and if the size of the pipe running to the creek was sufficient. Ms. Higgins agreed to stipulate to moving mechanical units and fireplace within the setback. Mr. Davis asked questions about fire sprinklers and discussion followed about requirements and additional discussion regarding pool equipment location, parking, garage use, electric and lighting for the shed, level of the basement floor, flood vents and determining if the first level was considered a "story". Chairman Widdis suggested carrying the Application, which the Board members approved.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions on this Application.

Salvatore LaRosa, 412 Milton Ave., was sworn, presented **Exhibits P-1** and **P-2**, and described the photos of his home and the existing house. Mr. White stated that Mr. LaRosa described easements on either side of the house. Mr. White clarified that it was not an easement, it was the right of way. Mr. White also explained that the measurement for setbacks is taken from the property line, not the right of way or curb. Mr. LaRosa described how the new building would impact his view. Ms. Higgins explained that the current house is set 15.9 ft. from the property line and the proposed is 32. Mr. White explained that the existing structure is 15.9 ft. from the property line, and the proposed is being moved back by more than 15 ft. Mr. LaRosa asked questions regarding grading, the number of stories, location of the garage, location of pool, runoff to his property and height of the house, which Board members responded to. Mr. LaRosa asked if the proposed house could be moved back 10 ft. Mr. Dallas replied that it would be extremely difficult to build the same exact house doing that, and that the proposed building location conforms with setbacks. There was further discussion regarding moving the proposed house back 10 ft. and impacting Mr. LaRosa's water views.

As no one else from the public wished to be heard, Chairman Widdis closed that portion of the hearing.

Vice Chairman Whitson asked about the location of the driveway. Mr. White and Mr. Dallas provided information to Vice Chairman Whitson's satisfaction. Chairman Widdis stated the Application will be carried. Mr. Kennedy asked Ms. Higgins if she would consent to extend the timeframe in which the Board has to act on the matter. Ms. Higgins agreed to the extension and waived all statutory time limits. Mr. Kennedy stated it will be carried to Feb. 11, 2020 without further notice, unless there a plan changes, which would then require 10 days' notice.

VIII. New Business:

1. PB2019-21 WEINER, Mitchell & Faith

189 Comanche Drive
Block 40, Lot 17
Variance relief for construction of new single-family home

Exhibits

A-1 Land Use Development Application of Mitchell & Faith Weiner
A-2 Plans prepared by Passman & Ercolino Architects, P.C., dated October 14, 2019, consisting of 4 sheets.
A-3 Boundary & Topographic Survey prepared by Morgan Engineering & Surveying, dated May 22, 2019
A-4 Average Setback Plan prepared by Morgan Engineering & Surveying, dated August 27, 2019
A-5 Building Permit Plot Plan prepared by Morgan Engineering & Surveying, dated September 25, 2019
A-6 Maser Consulting Review letter dated December 26, 2019
A-7 Garage Access Exhibit prepared by Morgan Engineering &Surveying, dated January 13, 2020.

The following persons were sworn in: William White, Board Engineer, Mitchell Wiener, Owner and Applicant, Matthew Wilder, Applicant's Engineer, Donald Passman, Applicant's Architect, and Allison Coffin, Applicant's Planner.

Mr. Kennedy asked if anyone had any objections to the notice for this application, hearing none advised that he and the Board Secretary had reviewed notice which was in order and the Board accepted jurisdiction.

Mr. Weiner appeared and described plans for the property, which he and his wife purchased in 2019, but currently reside in Middletown. They have been members of the Shrewsbury Sailing & Yacht Club (SSYC) in Oceanport for 13 years. He provided a history of interest in Oceanport and history of the previous house, which was flooded during Superstorm Sandy. Discussions with professionals determined the existing structure was not worth saving. He provided lot dimensions and no possibility of purchasing adjoining properties to make the lot conforming. Mr. Weiner described the variances he was requesting and the benefits of the variances. Mr. Weiner answered questions from Mr. Kennedy regarding current number of stories, height, number of bedrooms and bathrooms.

Mr. Wiener introduced Matt Wilder, Applicant's Engineer, who presented his education and qualifications and provided testimony regarding the existing and proposed homes. He referred to **A-3** and described the proposed 2 story single family home, covered front porch, uncovered rear deck, detached 3 car garage, air conditioner condenser and generator. Mr. Wilder reviewed **A-4** and addressed comments from Mr. White regarding a building height certification. Mr. Wilder entered **Exhibit A-7** and discussed the proposed garage access and turning radius. The Applicant will provide a concrete apron in accordance with the Borough's Ordinance. Mr. White asked about proposed retaining walls and the neighbors' drainage patterns and how it will affect their drainage. Mr. Wilder explained there are portions that drain towards Comanche and others portions toward the Branchport Creek. Mr. Davis asked about the height of a proposed fence on top of the wall. Mr. Wilder described existing fencing and stated there are no plans to install a fence on top of the wall. Mr. Whitson had questions about the depth and clearance the garage; Mr. Wilder stated the garage is 20 ft, an average size car is 18.4 ft.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions on this witness. As no one wished to be heard, Chairman Widdis closed that portion of the meeting.

Donald Passman, Applicant's Architect, previously sworn, appeared, provided his qualifications and provided testimony regarding building elevation, building height, mechanical units in the attic, and aesthetic elements of the proposed building's first and second floors. Mr. Tvrdik asked for explanation of the garage height. Mr. Passman stated if there were no other variance requests, the Applicant probably wouldn't have requested it. Mr. Whitson expressed concerned about the 11 variances requested, garage and main structure height. Mr. Passman testified that the garage will be one story and clarified information on the proposed elevator for Ms. Cooper. Mr. Kahle asked for height information for neighboring homes, which Mr. Passman could not provide exact measurements. Mr. Kleiberg stated that the proposed house should not exceed the height of the neighbors.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions of this witness. As no one wished to be heard, Chairman Widdis closed that portion of the meeting.

Allison Coffin, Applicant's Planner, previously sworn, appeared, provided her qualifications and provided testimony regarding the demolition of the existing structures and construction of a new single family home with a detached garage. She stated that the lot is a pre-existing, non-conforming lot. Ms. Coffin stated the Applicant is seeking variances for lot width, side yard setback, combined side yard setback, driveway side yard setback, retaining wall setback, setback for the air conditioning and generator platforms, garage setback, height for the principal and accessory structure and location of accessory structures within the front yard. She testified that the variances meet with C variance requirements, advance the purposes Municipal Land Use Law and promote a desirable visual environment. She opined that the benefits of the variance substantially outweigh the detriments and outlined those benefits. Mr. Passman explained the height of garage. Mr. White asked if Ms. Coffin had any information on the height of the adjacent houses, but she did not.

PUBLIC:
Chairman Widdis opened the meeting to the public for questions of this witness. As no one wished to be heard, Chairman Widdis closed that portion of the meeting.

Chairman Widdis opened the meeting to the public for comments on the Application.

Mary Ann Becker, 191 Comanche Drive, appeared, was sworn and requested information regarding the height of the house. She stated the 1 ft. height difference wouldn't make much of a difference to her.

Dave Mernick, 187 Comanche Dr., appeared, was sworn and stated his main concern is drainage because there is a terrific problem already. He feels the elevation of the property and the retaining walls will promote more standing water and flooding. Mr. Wilder explained that he understood Mr. Mernick's concern about storm water management. Currently, the drainage is a north to south direction. There is a high point that drains to the Branchport Creek and Comanche. There is no proposal to change the drainage patterns. The retaining walls should not affect Mr. Mernick's property or any adjacent property. He explained that the Applicant can't remedy an existing condition on a 50 ft. lot, but can try to not exacerbate it. The Applicant will install a storm water conveyance and use the area for recharge. Mr. White stated that there won't be any runoff from this property. The intent of the collection system was to capture runoff from this property and send it out to the river.

As no one else from the public wished to be heard, Chairman Widdis closed that portion of the hearing.

Chairman Widdis asked for comments from the Board. Mr. Davis would like the parking in front of the garage removed so that parking boats there wouldn't create an eyesore. Next, he would like some landscaping buffer covering the 12 ft. garage doors. Next, he suggested some down lighting for the stairs. Finally, if a fence is installed in the future, it should meet the 6 ft. maximum from the property next door.

Mr. Weiner summarized the Application and reiterated that the variances are required because the property is unique. He explained the height variance is needed so that the house isn't destroyed like it was with Superstorm Sandy. Mr. Passman also discussed the height of the roof. Mr. Weiner and Mr. Davis discussed the concern about the parking area in front of the garage and the size of the garage doors. Mr. Weiner agreed to landscaping buffer along the property line. Majority of board members were okay with the parking in front of the garage.

Chairman Widdis called for a motion, which was made by Councilman Tvrdik to approve the Application allowing the parking in front of the garage, require landscape buffer along property line and standard conditions, which was seconded by Mr. Rue. Mr. Kennedy listed the conditions.

Motion to Approve with Conditions

RESULT:	**ADOPTED [7 TO 2]**
MOVER:	Thomas J. Tvrdik, Councilman
SECONDER:	Jacob Rue, Alternate II
AYES:	Widdis, Cooper, Tvrdik, Kahle, Davis, Dailey, Rue
NAYES:	Whitson, Kleiberg
ABSENT:	Foster, Savarese

IX. **Petitions from the Public**: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public wished to be heard, Chairman Widdis closed that portion of the meeting.

X. **Adjournment:** As there was no further business, the meeting was adjourned at 10:12 pm on a motion by Ms. Cooper which was seconded by Mr. Whitson and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary